

Commerce File Nos.
MO2106226/DMG
MO2107563/DMG
MO2203630/DMG

15-1005-15202-2

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF COMMERCE

In the Matter of the Mortgage Originator
License of BlackDiamond Mortgage &
Real Estate Consultants Corp. d/b/a
ProTech Enterprise Investment Properties
Trust, License No. 20225862

PREHEARING ORDER

A prehearing conference was held on March 5, 2003 at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401. Michael J. Tostengard, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, MN 55101-2130, appeared on behalf of the Department of Commerce. Berry Willis, Chief Executive Officer, BlackDiamond Mortgage & Real Estate Consultants Corporation, 4204 83rd Avenue North, Brooklyn Park, MN 55443, appeared on behalf of BlackDiamond Mortgage & Real Estate Consultants Corporation (Licensee).

IT IS HEREBY ORDERED:

1. Discovery shall be completed by **May 5, 2003**. The Licensee has until that date to take the depositions of Commerce employees Dan Gallatin, Chris Lubin, Bonnie Polta and Robin Brown. In the event that the Licensee wants to depose James Bernstein, former Commissioner of Commerce, or any member of the Attorney General's staff, the Licensee must bring a motion to compel the deposition, setting forth the factual and legal basis for the discovery. Any motion to compel discovery, shall be brought no later than **April 7, 2003**. The depositions of Department employees shall be conducted at the offices of the Department of Commerce, unless counsel for the Department agrees to an alternate location. The Department agrees that the depositions may be videotaped. The Licensee bears the cost of the depositions of agency staff.

2. By **March 17, 2003**, the Department shall produce a copy of its procedures manual for inspection by the Licensee. In the alternative, it may provide a photocopy of the manual.

3. By **April 7, 2003**, the Department shall produce for inspection by the administrative law judge all of its files pertaining to the Licensee, with a list of all

documents from the files that have been produced for the Licensee. The file will be reviewed to assure that all documents have been produced, unless the document is governed by the attorney/client privilege.

4. Any dispositive motions, including any motion to dismiss, shall be served and filed by **May 5, 2003**, and the responding party shall have ten working days to respond.

5. This matter is scheduled for hearing on **July 14, 2003**, commencing at **9:30 a.m.** at the Office of Administrative Hearings, 100 Washington Avenue South, Suite 1700, Minneapolis, MN 55401. The hearing will continue on July 15, 2003, if necessary.

6. The parties shall exchange proposed written exhibits and witness lists and file an index of exhibits and a copy of the witness list with this office by **July 7, 2003**. To the extent possible, the parties shall enter into prehearing stipulations regarding the facts involved in the hearing and foundation for anticipated exhibits. Any party objecting to foundation for any written exhibit must notify the offering party and judge in writing at least two working days prior to the hearing or the foundation objection is waived.

7. In the event that either side requests a court reporter, notice shall be given to the Office of Administrative Hearings no later than **July 7, 2003**.

8. Requests for subpoenas for the attendance of witnesses or the production of documents shall be made in writing to the administrative law judge pursuant to Minn. R. 1400.7000. A copy of the subpoena request shall be served on the other parties. A subpoena request form is available at www.oah.state.mn.us.

9. The parties have not requested accommodation for a disability or appointment of an interpreter. The Office of Administrative Hearings shall be notified promptly, and no later than **July 7, 2003**, if either an accommodation or interpreter is needed.

10. In the event that the Licensee retains an attorney to represent it in this matter, the attorney shall promptly file a Notice of Appearance, and serve a copy on counsel for the Department.

Dated this 6th day of March 2003.

s/Beverly Jones Heydinger
BEVERLY JONES HEYDINGER
Administrative Law Judge